

over tenant. Plaintiffs filed their FD action December 7, 1992.

Plaintiff's evidence included testimony of plaintiff alleging that he had been called over to the property a number of times by other tenants. There was no direct testimony from the tenants.

Defendant denies the allegations and questions the validity of the notice. Defendant claims the notice is insufficient in that the reason for termination must be stated with enough specificity to enable the defendant to present a defense and further that the notice must advise the defendant that may present a defense if an eviction is filed.

The Referee finds that this being a Section 8 moderate rehabilitation program tenancy, the parties are required to refer to the code of federal regulations, specifically, 24 C.F.R. § 882.511 to determine the right to terminate. A reading of that section indicates that the termination notice must (1) state the reasons for such termination with enough specificity to enable to the family to prepare a defense and (2) advise the family that if a judicial proceeding for eviction is instituted, the tenant may present a defense in that proceeding.

A reading of plaintiff's notice to terminate shows a failure to notify defendant of the specific instances of conduct complained of and further fails to notify defendant of the right to prepare a defense. The Referee relies on Associated Estates Corp. v. Bartell, 24 Ohio App.3d 6 (Cuyahoga Cty. 1985) wherein it states that a "notice of termination fails to state the reasons for the proposed termination with the specificity that the federal regulations and procedural due process requires when the reason is stated in broad

language and without referring to specific instances of conduct."

Accordingly, the Referee rules the notice to terminate the tenancy to be improper and recommends that a Writ of Restitution not be granted. Costs to be borne by the plaintiffs.



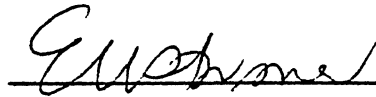
Thomas F. Lynett, Referee

JUDGMENT ENTRY

The report of the Referee is hereby approved. It is the judgment of the Court that a writ of restitution MAY NOT issue.

Date: _____

3/4/93



Judge